



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 6666-99

24 February 200

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 16 December 1999, a copy of which is enclosed.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

1430
Ser 852/386
16 Dec 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
[REDACTED]

Ref: (a) MILPERSMAN 1430-020

Encl: (1) BCNR file #06666-99
(2) NPC ltr 1430 Ser 852/226 of 29 Jun 99
(3) MILPERSMAN 1430-020

1. Based on the policy and guidelines established in reference (a), enclosure (1) is returned recommending disapproval. [REDACTED] states in his petition that he was reinstated to MM1 after it was deemed he was unjustly reduced in rank. Per enclosure (2), Commander, Navy Personnel Command reinstated [REDACTED] to the paygrade of E-6. This document does not state that he was unjustly reduced in rank, but due to his strong performance and recommendation since his NJP reduction the restoration to Petty Officer First Class was merited as stated in enclosure (2) as follows:

"This restoration does not set aside the punishment you received as a result of your NJP. You are not entitled to any recoupment of pay or privileges while in a reduced status. This restoration, however, does take into consideration your improved performance since the NJP and additionally serves to return you to the paygrade which your commanding officer believes you should hold."

3. Enclosure (3) is provided for information purposes.


E. F. ZARDESKAS-ASHBY
By direction



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**


1430
Ser 852/226
29 Jun 99

From: Chief of Naval Personnel (NPC-8)
To: [REDACTED]
Via: Commanding Officer, USS PITTSBURGH (SSN 720)

Subj: REQUEST FOR RESTORATION OF RATE

Ref: (a) Your ltr of 12 Apr 99 w/end

1. Your request for restoration of rate, reference (a), has been approved. This restoration is approved effective 16 July 1999.
2. Your recent and past performance as well as the strong support of your chain of command is commendable. Although your offense and lack of good judgment was serious, your hard work and dedication merits restoration to Petty Officer First Class.
3. This restoration does not set aside the punishment you received as a result of your NJP. The NJP remains a permanent part of your record. You are not entitled to any recoupment of pay or privileges while in a reduced status. This restoration, however, does take into consideration your improved performance since the NJP and additionally serves to return you to the pay grade which your commanding officer believes you should hold. I encourage you to maintain your present level of performance and wish you luck in future endeavors.
4. If you have questions concerning this case, my point of contact is [REDACTED] he may be reached at DSN 882-3224, commercial (901)874-3224, or email p852B1@persnet.navy.mil.


D. C. SIMONDS
Captain, U.S. Navy

Copy to:
NETPDTC (321)

MILPERSMAN 1430-020

Advancement After Reduction in Rate

Responsible Office	BUPERS (Pers-8)	Phone: DSN 224-3428 COM (703) 614-3428 FAX 223-4300
Reference	Uniform Code of Military Justice, Articles 15(d) and 15 (e) (UCMJ) BUPERSINST 1430.16D	
Policy	<p>Members who have been reduced-in-rate, as a result of judicial or nonjudicial punishment, except those who fall under Articles 15(d) and 15(e) of the UCMJ, are subject to the normal advancement system unless they are considered by their commanding officers to be deserving of special consideration.</p> <p>Members who were administratively reduced in rate as a result of broken service or recalled to active duty are not eligible for consideration.</p>	
Criteria for Restoration	<p>Restoration to a rate under this article results from special consideration accorded deserving members on a case-by-case basis. Accordingly, a member's entire service record will be reviewed by the Chief of Naval Personnel when a request for restoration is received. Requests for members who have been convicted of multiple offenses under the UCMJ, or have been reduced in rate as a result of a vacated, previously suspended sentence; reduced more than one pay grade by courts martial action; or convicted of a drug offense or other serious civil or military offenses will not receive favorable consideration. Recommendations for advancement under provisions of the normal advancement system are considered more appropriate for such members.</p>	

**Application
Procedure**

Members who desire reinstatement may submit a letter of request to the Chief of Naval Personnel (Pers-262 or Pers-932 for Reserve personnel) via their commanding officer. A window of a minimum of 12 months and a maximum of 36 months from the date of reduction-in-rate will be used for submission of requests.

The commanding officer's endorsement shall set forth in detail a full justification of the recommendation based on observation of the member since reduction-in-rate. This observation period will not interfere with the member's participation in the normal advancement system or the commanding officer may deny the request with no further action required.

If reduction-in-rate occurred as a result of judicial or nonjudicial punishment, commanding officers will ensure requests for reinstatement include as a minimum:

- A summary of the offense for which member received punishment, either through a statement, extract from the Unit Punishment Book, or record of trial from court martial;
- Copies of evaluations prior to, and all evaluations since reduction-in-rate; and
- If the offense is alcohol related, certification of completion and level of treatment with comments as to the member's success.

**Restoration to
E-2 or E-3**

Restoration-in-rate to pay grade E-2 or E-3 is provided for in Article 807c of BUPERSINST 1430.16D.
